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## Not hearing us

An exploration of the experience of deaf prisoners in English and Welsh prisons



# Not hearing us

An exploration of the experience of deaf prisoners in English and Welsh prisons

A report for the Howard League for Penal Reform by  
Daniel McCulloch

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the **Howard League** for **Penal Reform**



# Not hearing us

## An exploration of the experience of deaf prisoners in English and Welsh prisons

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# Foreword

In recent years the Howard League for Penal Reform has invested in commissioning and supporting post-graduate research to further our charitable and strategic objectives. As part of the strategy, for the past four years the Howard League has sponsored Masters students at Birmingham City University and this report is based on some of the research conducted under this programme.

The Howard League has accumulated evidence that deaf prisoners face particular challenges over many years. The charity's legal team has represented young deaf prisoners who have experienced difficulties in participating in the prison regime because their needs were ignored and misunderstood. Evidence from the many visits to prisons undertaken by the Howard League indicates that deaf prisoners experience deleterious conditions, partly because they are few in number and dispersed across the prison estate.

The publication of this research and its concomitant recommendations should spark a reconsideration of the provision of services for the deaf inside penal institutions that complies with the law as it is unacceptable that organs of the state fail to comply with equalities (or any other) legislation.

**Frances Crook**  
**Chief Executive of the Howard League for Penal Reform**





# Executive Summary

## Background

The current prison population for England and Wales stands at approximately 86,000 (Ministry of Justice, 2012). The exact number of prisoners with some form of hearing impairment is unknown (Ministry of Justice, 2011a). However, estimates predict that around 400 prisoners are thought to have some sort of hearing impairment and are categorised as 'disabled prisoners'. Prisons have a legal duty to make provision for disabled prisoners in a number of ways but are arguably failing to do so in the case of many deaf prisoners.

## Research aims

This research explores the experiences of profoundly deaf prisoners in England and Wales. It analyses current provisions made available for deaf prisoners and uses interviews and case studies to investigate the manner in which provision is delivered in order to make a set of recommendations for improving the treatment of deaf people in prison.

## Methodology

This research involved a small number of participants as an illustrative sample to assess the issues faced by deaf prisoners. Three 'populations' were identified and data was gathered from each using a semi-structured interview or questionnaire depending on the access granted. The identified populations were: i) service users (deaf prisoners) ii) service providers (representatives of agencies responsible for prisoners) iii) other stakeholders (those who have some other relevant experience of working with deaf prisoners).

## Key findings

- The research findings suggest that the majority of experiences point to a lack of provision for profoundly deaf prisoners, with many stakeholders suggesting that more could be done to help. This lack of provision resulted in some profoundly deaf prisoners not having access to the full prison regime. Although there are cases which show deaf prisoners being given suitable support for their needs, these are often isolated examples.
- The findings of the research suggest that although provision is made in some cases, it needs to be more widespread in order for the Prison Service to meet its legal duties and to adhere to its own statement of purpose. Additionally, improvements to provision could be of major benefit for both deaf prisoners and the general public, as full access to the prison regime could result in a reduction in reoffending.

## Key recommendations

In light of this research, the following recommendations are made for service providers:

- Deaf prisoners should not face a partial justice system. The Prison Service should ensure that prisoners are not prohibited from accessing elements of the prison regime on the basis that they are deaf as this could breach the Equality Act 2010.
- Clear guidelines for all agencies on who is responsible for providing access to each part of the prison regime should be established, in order to minimise confusion over who is responsible for each element and ensure deaf prisoners can fully access the prison regime.
- Ensure that instructions made in PSI 32/2011, *Ensuring equality*, are adhered to by all English and Welsh prisons. This includes producing disability action plans and ensuring that efforts are made to identify prisoners with disabilities.

- Facilitate communication between prisons about policies regarding special treatment and 'reasonable adjustment' in order to bring about some consistency in provision.
- The prison estate should be provided with cases of good practice where prisons have made reasonable adjustments for prisoners with individual needs within their budgets. For example, in Shrewsbury prison, staff and prisoners were taught sign language alongside each other so they were able to communicate with prisoners who were deaf.
- Consider the prospect of a national prisons budget to cater for individual needs in order to reduce the attitude in prisons of deafness as a 'burden'.
- Provide accurate statistics regarding the number of deaf prisoners in the care of the Prison Service.

# Introduction

*"I feel left out of much of the prison 'humour' because I cannot hear the small talk kind of jokes and comments that cause laughter and smiles. On insistence some jokes are repeated for me but it doesn't quite have the same impact".*

*Deaf prisoner*

## Background

The current prison population for England and Wales stands at approximately 86,000 (Ministry of Justice, 2012). Although the exact number of prisoners with some form of hearing impairment is unknown (Ministry of Justice, 2011a) estimates predict that around 400 of these prisoners are thought to have some sort of hearing impairment and are categorised as 'disabled prisoners' (HM Inspectorate of Prisons, 2009). In recent criminal justice debates the question of whether disabled prisoners should be given special treatment has been one of much contention. The introduction of the Human Rights Act 1998 and the Equality Act 2010<sup>1</sup> means that prisons have a legal duty to make provision for disabled prisoners. Despite this, arguments remain over what can be considered to be a 'reasonable adjustment' – the term used to describe the changes that should be made to accommodate disabled prisoners in the Prison Service Instruction *Ensuring Equality* (PSI 32/2011) (see Ministry of Justice, 2011b).

Currently, the Prison Service states: 'we serve the public by keeping in custody those committed by the courts. Our duty is to look after them with humanity and help them lead law-abiding and useful lives in custody and after release' (HM Prison Service, n.d). This statement claims that the service will aim to achieve this by meeting three main objectives:

- holding prisoners securely
- reducing the risk of prisoners reoffending
- providing safe and well-ordered establishments [that] treat prisoners humanely, decently and lawfully.

In order for the Prison Service to achieve these objectives, clear communication with all prisoners is necessary, and this is as important for deaf prisoners as any other prisoner. A lack of effective communication with deaf prisoners could result in the Prison Service failing to achieve these goals, and potentially not fulfilling its legal obligations.

## Research aims

This research aims to provide an updated review of the landscape for profoundly deaf prisoners. It begins by reviewing the current context and examining previous experiences of deaf prisoners using existing literature, before identifying the legislation and existing tools for managing deafness in prisons and assessing who is responsible for meeting the needs of deaf prisoners. The study then explores contemporary experiences of profoundly deaf prisoners and those who have relevant experience, splitting the respondents into three populations i) 'service users' – profoundly deaf prisoners and former prisoners ii) 'service providers' – representatives of the agencies responsible for prisoners, for example the Ministry of Justice or the National Offender Management Service (NOMS) iii) 'other stakeholders' – those who have other relevant experience and knowledge of working with deaf prisoners. The research uses the emergent data from these three populations to draw out some key themes and concerns and to recommend improvements to policy.

1 The Equality Act (2010) replaced the Disability Discrimination Act (1995) and introduced the Public Sector Equality Duty which replaced the Disability Equality Duty. The Public Sector Equality Duty requires public sector services to consider how their policies and practices affect people with disabilities.

## Methodology

This research involved a small number of participants as an illustrative sample to assess the issues faced by deaf prisoners. The identified populations and research methods used are categorised below:

*‘Service users’* – the sample of service users consisted of ten profoundly deaf prisoners who had written to the researcher and given their consent for their experiences to be used. Nine of these were male and one was female. All of these were from Category B or C prisons at the outset of the study. During the research process two of them were released from prison into the community.

Participants became involved in the research by responding to an advert placed in *Inside Time* newspaper and as such, this sample was self-selecting. It should be noted that this advert was placed in written English so only people who were able to understand at least some written English were likely to respond. Therefore it should be noted that the research population is unlikely to be fully representative of all profoundly deaf prisoners, but instead is illustrative of some of the experiences of deaf prisoners.

*‘Service providers’* – the sample of service providers consisted of a representative from the National Offender Management Service (NOMS) who had experience working on disability policy. A letter from Maria Eagle, former Under Secretary of State for Justice was also included in the sample, as representative of central government opinion. Attempts were made to add serving prison officers to this sample, but to no avail.

*‘Other stakeholders’* – the sample of stakeholders consisted of one case worker from a law firm who had previous experience of working on cases concerning prisoner rights; one solicitor with experience of working with prisoner rights and a representative from one prominent charity involved in working with members of the deaf community. Each of these participants had experience of working with deaf prisoners and was able to provide their own experiences of cases, whilst also applying specialist knowledge from their occupational backgrounds.

The experiences of service users have been divided into broad thematic categories due to the narrative nature of responses. Responses from service providers and stakeholders are presented as individual accounts due to the more structured nature of their feedback.

# 1 Understanding the context

*"If you are going to hold somebody with a disability in prison, then that raises all sorts of issues".*

*Stakeholder*

## **Deafness, communication and disability**

To be 'deaf' is defined as to be 'lacking the power of hearing or having impaired hearing' (Oxford Dictionaries, n.d.) and can vary massively in degree. At one end of the spectrum a person might not have full hearing but deafness may have little impact on their daily routine; at the other end of the scale, somebody's inability to hear might mean that they are unable to communicate at all in spoken English and use an alternative means of communication. The latter of these groups might well consider themselves to be either severely or profoundly deaf, being able to hear little or no sound. Of the population of deaf prisoners, a significant number are likely to be profoundly or severely deaf, although exact figures are hard to ascertain due to issues of accurate recording of information.

Suggestions have been made in some academic literature that a further distinction can be drawn between being 'deaf' (that is suffering any form of hearing loss) and being 'Deaf', whereby one would be profoundly or severely deaf and would use British Sign Language (BSL) as a primary means of communication (Gibbs and Ackerman, 1999; Young, Monteiro and Ridgeway, 2000). This study focuses on profoundly deaf prisoners more generally (both BSL-using and non-BSL-using), and so this population will be referred to as being 'deaf'.

The ability to communicate with English speakers also varies hugely between deaf individuals. Some people who are deaf have little trouble reading and writing in English, whilst for others this can be incredibly challenging, or even not an option. Similarly, some deaf people lip read, others use a lip speaker to help them, and some ascertain very little from spoken words at all. In some cases aids are used to help deaf people in their day-to-day living, for example hearing aids; a vibrating alarm clock; a text phone or Minicom telephone; an induction loop; subtitle-enabled televisions etc. Therefore, each person will have different communicative abilities and needs and when considering the impact of deafness on a person's ability to communicate in English, it is important to consider each person as an individual.

People who are deaf might consider themselves to be disabled under the terms of the Equality Act 2010. This Act defines a disabled person as someone who 'has a physical or mental impairment... [that] has a substantial and long-term adverse effect on [that person's] ability to carry out normal day-to-day activities' (Equality Act, 2010). Although some BSL-using sections of the deaf population consider themselves to be part of a linguistic minority, rather than being 'disabled' (Bramwell, Harrington and Harris, 2000; Tucker, 1994; Lane, 2002) organisations such as Action on Hearing Loss (formally the Royal National Institute for the Deaf or RNID) suggest that people who suffer from deafness might consider themselves to be disabled under the terms outlined above (Action on Hearing Loss, n.d.).

### **Documented experiences of profoundly deaf prisoners**

A short thematic review on the care and support of disabled prisoners published by HM Inspectorate of Prisons (HMIP) in 2009 claimed that:

*Within prisons themselves, from the moment of reception to the time of discharge, prisoners with disabilities reported poorer experiences than those without disabilities in almost all areas, except for healthcare (HM Inspectorate of Prisons, 2009).*

It also acknowledged that ‘...while inspection reports draw out some examples of very good practice [in the care and support of disabled prisoners] they are exceptions, rather than the rule’ (ibid.).

There is a limited literature relating to deaf prisoners specifically; much relates more generally to disabled prisoners. However, existing literature does demonstrate a number of key issues facing deaf prisoners, including safety; loneliness and isolation; difficulties in understanding the prison regime; service provision and reasonable adjustment and communication between staff and prisoners. These issues are grouped thematically and discussed below.

#### *Safety*

The HMIP report noted that ‘many [deaf prisoners] felt unsafe, and said that they had less access to activities’ (HM Inspectorate of Prisons, 2009). In order to provide safe and orderly prisons, effective inter-prisoner and staff-prisoner communication is essential, as a lack of understanding can have a significant impact on safety in prisons, for both deaf prisoners and for hearing prisoners and prison staff. For example, ‘...if the staff or other prisoners are not able to communicate with a deaf prisoner then misunderstandings occur’ (Gibbs and Ackerman, 1999). These misunderstandings can lead to breaches of safety rules, and can easily lead to what is perceived as ‘disorder’. In addition to this, if a profoundly deaf prisoner is unable to hear a fire alarm, their own safety may be put at risk.

#### *Loneliness and isolation*

‘Deaf prisoners suffer a double imprisonment... [as they] effectively find themselves in a lonely, frustrating world, cut off from their fellow prisoners’ (Fisken, 1994). This loneliness can have serious repercussions for deaf prisoners, as ‘few people can communicate with them and they have little opportunity to participate in prison life’ (ibid.).

Isolation and a lack of communication have been regarded as contributory factors in mental health difficulties for deaf prisoners. In their review of the literature regarding deaf prisoners, Young et al suggested that ‘these factors, when combined... result in an experience of severe communication deprivation within an enclosed and isolated environment’ (Young et al., 2000). They go on to note that:

*...circumstances such as these are unlikely to be supportive of good mental health among prisoners...there is some reason to believe that deaf prisoners are more likely than their hearing peers to have mental health difficulties while in prison because of the way in which their communication needs compound the isolation and stress of prison life (ibid.).*

In support of this claim, in their study of deaf and hard of hearing prisoners in the United States, Sneider and Sales suggested that ‘if non-deaf or hard of hearing prisoners are at risk for psychological breakdown in prisons... deaf or hard of hearing inmates should be at greater risk’ (Sneider and Sales, 2004). Further, Izycky and Gahir (2007) claim that in their case study of a deaf prisoner, an inability to communicate caused a significant change in the prisoner’s emotions and behaviours.

*Difficulties in understanding the prison regime*

Fiskén suggests that ‘...the hearing prisoner learns about the prison regime; rules and expectations through informal communication with other inmates as well as through induction by prison staff. If the staff or the prisoners are not able to communicate with a deaf prisoner then misunderstandings are likely to occur’ (Fiskén, 1994). Additionally, as the more informal elements of prison culture are ‘something that hearing prisoners learn about by word of mouth; without the benefit of explanation, only a very worldly-wise deaf prisoner could understand these concepts’ (Fiskén, 1994). Therefore, a lack of communication can inhibit deaf prisoners from understanding the regime around them and can reduce their ability to participate in all elements of prison life.

*Rehabilitation of prisoners*

One of the objectives stated by the Prison Service (2012) is ‘reducing the risk of reoffending’. The Ministry of Justice has stated that ‘the right way to improve public safety and reduce the number of victims is to reduce reoffending’ (Ministry of Justice, 2010). Therefore, successful rehabilitation is desirable not only for people in their journey through prison, but also for the Prison Service and the Ministry of Justice, in reducing reoffending and subsequently improving public safety.

‘Evidence shows that education and training can have a big impact on reducing reoffending rates’ (Social Exclusion Unit, 2002) and that ‘prisoners attending education and training are less likely to reoffend’ (ibid.). Central to the delivery of training and education is a prisoner’s ability to communicate with prison staff and other prisoners. If there is no provision for profoundly deaf prisoners to communicate with others, then it can be expected that profoundly deaf prisoners will not fully participate and progress in the key reoffending reduction areas of education, training and employment.

Employment also plays a key role in rehabilitating offenders and reducing reoffending. In the Green paper *Breaking the Cycle* the Ministry of Justice (2010) stated that:

*Making more offenders engage in hard work and reparation will help equip them with the skills they need to improve their prospects of paying their way, getting off benefits and into a job. Evidence shows that having a job is a major factor in preventing future offending.*

The Ministry of Justice has since asserted that ‘it is simply not acceptable for a prisoner to pass his sentence in a state of idleness’ (Ministry of Justice, 2011c). Therefore access to employment is an important element of the prison regime, for reducing reoffending and for providing ‘robust’ sentences.

Added to this, maintenance of good relationships is important in reducing reoffending as ‘evidence indicates that the relationship between an offender and the person managing them is an important factor in successful rehabilitation’ (Ministry of Justice, 2010). Previous research has suggested that deaf prisoners have felt that their deafness has resulted in them having poor relationships with prison staff and other prisoners (Fiskén, 1994).

*Service provision and reasonable adjustments*

In the delivery of services the Prison Service is expected to make ‘reasonable adjustments’ to ensure that deaf prisoners are not at a substantial disadvantage because of their disability. A report by HM Inspectorate of Prisons (2009) identified a number of ‘reasonable adjustments’ that had been made to improve service provision for deaf prisoners. Of the 82 officers consulted for the report, 16 mentioned that staff trained in BSL were available to help deaf prisoners, and 14 said that they had hearing loops available in their prison.<sup>2</sup> Twelve officers mentioned the availability of teletext television; vibrating clocks and hearing aids were mentioned; but only three reported contact with what was then the Royal National Institute for Deaf People (now Action on Hearing Loss).

<sup>2</sup> The existence of hearing loops did not necessarily mean that they were used – at one prison inspection, they were available in certain areas of the prison but staff did not know how to use them.



When PSI 2011/32 *Ensuring Equality* (Ministry of Justice, 2011b) was issued, it reiterated the need for reasonable adjustments to be made for disabled prisoners, by stating that:

...governors must consider on an ongoing basis what prisoners and visitors with a range of disabilities might reasonably need and ensure that reasonable adjustments' (*ibid.*). The report further stipulates that 'should a disabled prisoner need special adaptation to be made to a cell or a prison to allow them to function in a 'normal manner' then the prison cannot cite the cost as a reason for not making the changes (*ibid.*).

In the past there has been some support for deaf prisoners in accessing the prison regime. A prominent example of this is the Deaf Prison Project in Birmingham, which ran from 1999 to 2009.<sup>3</sup> The project helped to support deaf prisoners by giving 'information, advice and support to deaf and hard of hearing people in prison' (Social Exclusion Unit, 2002) and offered 'trained prison visitors and volunteers qualified in sign language; basic deaf awareness training for prison and probation staff and information and advice to deaf families with a family member in prison' (*ibid.*).

The project may have helped to provide some of the services identified as lacking in previous literature. The project was considered so important that the Social Exclusion Unit report *Reducing re-offending by ex-prisoners* (Social Exclusion Unit, 2002) highlighted the Deaf Prison Project as a key project in relation to prisoner health. However, following funding cuts in 2009, the project ceased to continue and there has been no nationwide project for deaf prisoners since. Therefore, whilst the Deaf Prison Project may have helped to tackle some issues previously identified, the subsequent collapse of the project may have resulted in many of issues around accessing the prison regime re-emerging and remaining unresolved.

## 2 Legislation, disability provision and responsibility

*“When asking how much worse treatment is for a deaf person than for someone else you might ask at what point does it become inhuman and degrading treatment?”*

*Stakeholder*

### Key legislation

#### *The Human Rights Act 1998*

Three articles contained in this Act have previously been used in high profile cases concerning disability (Leigh, Day and Co., 2008):

- Article 3 states that ‘no one shall be subjected to torture or inhuman or degrading treatment or punishment.’
- Article 8 states that ‘everyone has the right to respect for his private and family life, his home and his correspondence’ and proposes that ‘there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health morals, or for the protection of the rights and freedoms of others.’
- Article 14 asserts that ‘the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.’

Each of these articles is open to considerable interpretation and contestation. However, the imprisonment of deaf prisoners without any means of communication could be argued to contravene each of these. Article 3 could be broken, as the treatment shown in the existing literature might be seen as ‘inhuman or degrading treatment or punishment’. Lack of communication for deaf prisoners might be seen to contravene Article 8 of the Act on various levels. As has previously been acknowledged, Article 8 may be interpreted in a number of ways (Janis, Kay and Bradley, 2008). In this case, the right to correspondence might be the most obvious breach, as without provision for communication, full and complete correspondence is unlikely to be available to deaf prisoners. Article 14 could arguably be breached if the treatment was judged to constitute discrimination against a person on account of their disability. If the Prison Service was found to be breaching these three articles, they could be argued to be treating prisoners unlawfully.

#### *The Equality Act 2010*

The Equality Act 2010 replaced previous discrimination legislation, including the Disability Discrimination Act (DDA) 1995 and the Disability Discrimination Act (DDA) 2005. The previous Disability Equality Duty has been replaced by the Public Sector Equality Duty.

Under the Equality Act 2010 it is unlawful for a provider of services to discriminate against a disabled person. This legislation could impact on the Prison Service, as the agency might be considered a service provider. The Equality Act 2010 suggests that direct discrimination against a disabled person occurs when someone is treated less

favourably than another person because of their disability, without being able to show that the treatment is proportionate to achieving a legitimate means. Discrimination also extends to people who are treated less favourably than others because of their association with someone who has a disability or because they are thought to be disabled.

The Act places a duty to make adjustments upon service providers, comprising of three requirements. The first of these requirements is that where a service provider has a policy, provision or criterion that puts a disabled person at a 'substantial disadvantage' in comparison to non-disabled people, the service provider must 'take such steps as it is reasonable to have to take to avoid the disadvantage'. The second is that where a physical feature puts a disabled person at a substantial disadvantage in relation to non-disabled people, then the service provider must take 'reasonable' steps to avoid the disadvantage.

Especially relevant to deaf people is the third requirement. This proposes that where a disabled person would be at a 'substantial disadvantage' in comparison to a non-disabled person if it were not for the provision of an auxiliary aid, then the service provider must take 'such steps as it is reasonable to have to take to provide the auxiliary aid.' However, for each of the requirements, what is considered to be a 'substantial disadvantage', and what adjustments and steps are judged to be 'reasonable' are both open to considerable interpretation and discretion.

#### *The Public Sector Equality Duty (as part of the Equality Act 2010)*

The Public Sector Equality Duty replaced the Disability Equality Duty, which was originally introduced in 2006 as part of the updated Disability Discrimination Act 2005. It places a duty on public bodies to show due regard to the equality needs of all individuals (including disabled people). In doing this it requires the agencies to pay due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunities and foster good relations.

The Duty means that some public bodies (including the National Offender Management Service (NOMS), representing HM Prison Service) have to produce documents setting out 'how the agency will meet its equality duties and deliver fair prison and probation services to all' (Ministry of Justice, 2009). The scheme acknowledged at the time (with regard to prisons) that 'the effectiveness of the arrangements for managing disability issues varies between establishments' (Ministry of Justice, 2009). Prisons are required by PSI 32/2011 to produce action plans for disability, discussing practical ways in which improvements will be made.

### **Managing disability in prisons**

#### *Management tools*

A consequence of the NOMS single equality scheme was the introduction of a new Prison Service Order (PSO 2855 *Prisoners with disabilities*) and a Prison Service Instruction (PSI 31/2008 *Allocation of Prisoners with Disabilities*), both of which are now superseded by PSI 32/2011 *Ensuring Equality*. PSO 2855 stated that deaf prisoners would be 'considered to have a disability in the form of a sensory impairment, as 'sensory impairment' includes partial and full deafness' (HM Prison Service, 2008a).

The PSO required governors to nominate a Disability Liaison Officer (DLO), whose role was described as follows:

*Principally to act as a source of information and advice within the establishment on issues of disability affecting prisoners. They are not expected to be experts, but rather to know where to obtain information or advice when needed* (HM Prison Service, 2008a).

The PSO pointed to various elements of change that should be made by prisons for disabled prisoners:

- Prisoners with disabilities need to have access to an induction programme adapted to meet their needs.
- Access to those parts of the regime identified in the prisoner's sentence plan is crucial.
- Appropriate and reasonable adjustments should be made to ensure wherever possible prisoners with disabilities are not excluded from work.
- Establishments need to put in place effective processes to ensure that prisoners are able to communicate with those outside prison.
- It is vital that prisoners with disabilities can access any offending behaviour programmes as identified in their sentence plan, with adjustments made as necessary.

It also noted that 'governors need to be aware that if reasonable adjustments are not made in respect of a prisoner with a disability, that they are vulnerable to legal challenge' (ibid.).

PSO 2855 was followed by PSI 31/2008 *Allocation of Prisoners with Disabilities* which acknowledged that '... not all prisons are able to accommodate all types of disabilities, even with reasonable adjustments. However, the prison estate is large enough that we cannot argue that there is not suitable accommodation somewhere in the estate' (HM Prison Service, 2008b). It continued:

*Governors (and directors of contracted prisons) must ensure that prisoners with disabilities are able to access the regime and appropriate interventions. Where that is not possible at a particular establishment because appropriate accommodation is not available, and reasonable adjustments cannot be made, the prison should contact the PMS to identify another establishment with the appropriate accommodation and courses (ibid.).*

Both these documents pointed to adjustments that could be made for disabled prisoners within prisons. These were considered to be under the umbrella term of 'reasonable adjustment', a term which was not defined by either document.

The most recent guidance, PSI 32/2011 replaced the previous PSI and PSO. It made five key points in relation to disability. These are:

- Governors must ensure that efforts are made to identify prisoner disabilities.
- Governors must consider what prisoners and visitors with disabilities might need and ensure that reasonable adjustments are made for disabled prisoners (and visitors).
- Where reasonable adjustments cannot be made, prisoners are transferred to another appropriate establishment.
- The transfer of a prisoner must not be delayed on the basis of their disability.
- Where a prisoner is required at court, governors must inform the escort contractor and Clerk of Court of the disability details and needs of the prisoner.

The PSI also attempted to provide a definition of 'reasonable adjustment' by stating that 'in prison, a reasonable adjustment should enable a disabled prisoner to take full part in the normal life of the establishment' (Ministry of Justice, 2011b). However, it stated that 'the law does not specify what factors you should take into account when considering what is reasonable' (ibid.) potentially leading to wide variations across the Prison Service. It further detailed that:

Because we are part of a large organisation, we cannot use the cost of an adaptation as the reason not to provide it, unless it is significant and out of proportion to the benefit the individual will receive. The courts will look at the funds available across the entire organisation, rather than the budget for the establishment in question.

*Thus, what is considered to be 'reasonable' is still open to significant interpretation. The PSI also eliminated the requirement to name a Disability Liaison Officer (DLO). It stated that 'much of the work that is currently done by DLOs in many prisons...will remain necessary, but it can be distributed amongst other managers and staff if this is deemed more effective locally' (ibid.).*

This could result in variations in local delivery of provision.

### **Whose responsibility is it to meet the needs of deaf prisoners?**

Sparks (2009) noted that 'to confine an individual is also to place them in a position of dependency...in claiming the authority to imprison one of its citizens, a state is undertaking a responsibility for the prisoner's health, safety and physical and psychological wellbeing which is qualitatively greater than that which it owes to the free citizen.' Following Sparks' argument, the responsibility for the wellbeing of deaf prisoners has formally been taken over by the state via the Prison Service and other agencies.

For health related issues, healthcare teams (normally run by the National Health Service (NHS)), are expected to provide 'healthcare' for prisoners. Similarly, social care is expected to be provided in prisons, although past research has suggested that there is some confusion over who is responsible for social care in prisons and even where the boundary between 'healthcare' and 'social care' sits (Parker, McArthur and Poxton, 2007).

The report *Reducing Reoffending by Ex-offenders* (Social Exclusion Unit, 2002) shows the importance of these elements being successfully delivered to prisoners. The report acknowledged that:

*Many prisoners have significant mental and physical health problems....untreated; such problems can be made worse by imprisonment.*

Whilst there is some evidence of services for deaf prisoners, the boundaries of responsibility are not always clear, and the roles of different agencies are not necessarily neatly defined. As a result, confusion exists about who is responsible for providing different adjustments and services for deaf prisoners.

### 3 Service user perspectives

*“Answers to my questions are not heard. ‘It doesn’t matter’ I’m told”.*

*Deaf prisoner*

#### **Difficulty in understanding the prison regime**

All of the respondents in this group pointed to the difficulties that they had in communicating with staff, and issues that resulted from this, ranging from formal issues such as those surrounding due process to emotional issues that result from difficulties in communicating with others. One, respondent, ‘Marc’<sup>4</sup>, suggested that ‘...some deaf prisoners find it difficult to talk to staff and prisoners and find it hard to understand what is being said.’ Similarly, ‘Leo’ pointed out that communication difficulties often mean that deaf prisoners ‘can get the wrong end of the stick.’

Some service users highlighted particular times when communication issues became problematic. ‘Nathaniel’ said that this led to difficulties in his reception and induction in the prison. He suggested that during the reception process – ‘the staff member was able to talk to me about my details but I could not understand what he said.’ Discussing the induction meeting, he claimed that ‘every induction is too hard to understand because there is no interpreter.’ In addition to ‘Nathaniel’s’ evidence, five other respondents suggested that they had suffered trouble during the reception and induction processes as a result of not being able to understand what was being said to them.

Difficulty in interpreting these processes can cause huge problems for prisoners as it could result in a lack of understanding of the expectations and rules of the prison regime. These examples echo those presented in the previous literature and suggest that changes in prison policy over the past few years have not improved the experience that profoundly deaf prisoners receive at the points of reception and induction.

Alongside these issues, seven service users claimed that they had encountered problems with discipline issues, for reasons that they believed to result from their deafness. One deaf prisoner stated that they ‘got a warning because someone thought I was ignoring them, which I was not.’ Another claimed, ‘I get...something wrong and I get told off as I cannot hear and understand and misread or miss something.’

One prisoner pointed out the issues that communication difficulties can have in adjudication hearings. ‘Rick’ suggested that during one disciplinary he did not understand what was happening, so he pleaded guilty without understanding the consequences of this or the charges against him, in order to get the hearing over quicker. This example, alongside others relating to discipline, raises questions regarding due process and judicial equality for deaf prisoners (see Miller (2004) for a detailed discussion on this topic).

#### **Safety**

Three of the respondents expressed concerns over their safety in the event of a fire. Each of these respondents said that they would be unable to hear a fire alarm and that they were unsure of what would happen in the event of a fire as there were no flashing fire alarms. However, safety was a less prominent subject in the responses from the service users.

<sup>4</sup> All names in this report are pseudonyms.



Two deaf prisoners also raised issues to do with personal safety. They suggested that they were vulnerable to personal attacks because of their deafness and that they were unable to do anything to safeguard against these. Whilst any prisoner is at risk of a personal attack, these prisoners felt that their deafness added to their vulnerability was increased because they could not hear people approaching them.

### **Loneliness and isolation**

For six of the service users communication with family members and/or legal services outside of prison via telephone had been an issue due to their need for a textphone or minicom. These respondents suggested that alternative forms of communication could be utilised instead. In one case, 'Umar' said:

*...the use of the telephone is not possible but deaf prisoners are still restricted to the one letter a week policy... not being able to phone isolates me from my family and friends and puts me at a severe disadvantage with my solicitor who has to depend on first class mail.*

Some respondents similarly suggested that they felt that they were at a disadvantage to other prisoners because of their inability to communicate at speed. One prisoner also pointed out that access to the Samaritans in their prison was only available via telephone so they had no access to this service.

Seven of the respondents reported that they felt their deafness had affected their social opportunities with their fellow prisoners. Three of these claimed to have been bullied because they were deaf, with two of these feeling that this in particular stemmed because they chose to wear hearing aids (in both of these cases the prisoner had chosen to remove these aids by the time they had written to the researcher because of bullying).

Six respondents reported that they had either been unable to understand their fellow prisoners or that other prisoners had been unable to understand them during their time in prison. For example, 'Pete' said that in his wing 'everyone [other prisoners] is hearing and can chat well but ...[I] stay in my cell'. 'Pete' went on to explain that because he was the only BSL user, and as he did not understand English, he felt excluded from socialising with other prisoners.

Relationships with other prisoners were further complicated by issues regarding the use of Teletext/subtitle-enabled TVs in cells. Four of the respondents claimed to have had difficulty accessing Teletext/subtitle-enabled TVs to begin with, and two of these claimed that they had become involved in altercations with others because of their use of subtitles when watching TV, resulting in a negative relationship with these individuals.

Four deaf prisoners also chose to speak about the emotional impact of their experiences. Perhaps unsurprisingly, where prisoners felt that little had been done to help them to communicate they reported feelings of loneliness and depression. One even went as far as to suggest that they felt like they were 'going mad.' None of the respondents who felt that little had been done to meet their needs reported feelings of happiness with their situation. This might support the claim made by Young et al. (2000) that:

*There is some reason to believe that deaf prisoners are more likely than their hearing peers to have mental health difficulties because of the way in which their communication needs compound the isolation and stress of prison life.*

### **Rehabilitation**

Seven of the prisoners claimed to have had trouble accessing employment in prison because of issues relating to their deafness. Two of the prisoners stated that they had lost employment because they had no vibrating alarm clock and subsequently were unable to wake up in time for work. A further four suggested that they had been told that they would be unable to access employment at one point or another in their time

in prison because adaptations could not be made to suit their needs. One suggested that although he had no issues in gaining employment, he did have trouble in following orders because he was unable to understand them as they were in spoken English with no interpretation for him into BSL.

Similarly access to education classes and offending behaviour courses were cited as major issues for many of the service users. Five of the prisoners felt that the courses played an important role in their progression through prison, and two of these respondents proposed that the courses were not just important to them being released but also in their own personal development in order to change their offending behaviour.

However, the majority of participants claimed to have problems in gaining access to either education courses or offending behaviour classes. This ranged from having no access to classes at all (in the cases of four of the respondents) to having some access but having no communication support during classes, subsequently leading to an inability to understand the courses (in the cases of three of the sample) to having been promised interpreters for classes to no avail (in the cases of two of the group).

### **Relationships with staff**

For many of the respondents the level of provision that had been made to meet their needs appeared to affect their relationships with staff (with those reporting positive experiences being most likely to report good relationships with staff). In many cases, prisoners perceived the attitudes of staff members towards deafness generally as negative. 'Marc' felt that 'the staff see it [deafness] as an inconvenience'. 'Pete' claimed that when he asked for something to be repeated by a prison officer, 'he [the staff member] was red and furious at me because I'm a deaf person that is why.' In total, five prisoners stated that staff had become angry at them because they had asked for things to be repeated.

Prisoners also spoke about their experiences of the Disability Liaison Officer (DLO) and the knowledge and attitude of this person. The reviews were varied, from one prisoner who suggested that DLOs were able to do nothing to help him, to another prisoner who suggested that their DLO had been incredibly helpful. Three narratives seemed to suggest that although there were good intentions from the DLO they had been unable to help the prisoner because there was no BSL interpreter available in the prison.

### **Service provision and reasonable adjustments**

Positive experiences were reported by some prisoners. Three respondents pointed out experiences where some form of provision had been made for them in prison. These responses showed a range of positive experiences, from improved access to communication with family members to provision being made for their needs in education classes and offender behaviour courses. One prisoner stated, 'I am being looked after very well'.

Alongside the negative experiences in his account, 'Pete' also highlighted times in other prisons in which he had received support to aid his involvement in prison life. He acknowledged one prison in which various adaptations were made to suit his needs. The prison already had a minicom telephone installed, and because of the time taken to communicate on minicom phones, allowed deaf prisoners longer to call. This prison also provided an interpreter for induction, legal meetings and probation meetings, as



well as giving 'Pete' a vibrating alarm clock. This prison had other deaf prisoners who were able to communicate with him all placed on one wing. He also reported improved relationships with staff members, by saying that prison staff were 'a wonderful support to the deaf' and that he 'had a great time with staff.' 'Pete's was the most positive experience reported, and showed a stark contrast to the experiences and emotional outlooks of prisoners who had reported a lack of adjustments.

These positive experiences show that not all deaf prisoners feel they are always treated negatively because they are deaf. However, it is important to note that whilst these positive experiences are good examples of the way in which prisons can accommodate deaf prisoners, they represent less than a third of the total sample for the service users. Although this displays that positive steps can be taken in order to help deaf prisoners to access the prison regime, this is only still being realised in a minority of cases.

**Case study: Extracts from a letter from 'Geoff', a deaf prisoner**

Every prisoner has more than his/her fair share of problems to cope with so why add a 'deafie' like me into the fray. I must be mindful of this and I have to be somewhat tactful if my deafness adds to their problems.

On Christmas day I was violently attacked by a cellmate who had hidden the TV remote from me when only I was entitled to it. I stood up to this bully, but he lost it and raged. Naturally he was able to talk his way out with the officers whereas I was sent to another cell.

There is always the problem of assuming what has been said to me and not checking. This can land a deaf prisoner in trouble if he/she turns up at the wrong place and the wrong time. There's also the problem of being accused of 'selective' listening which is not intended.

I feel left out of much of the prison 'humour' because I cannot hear the small talk kind of jokes and comments that cause laughter and smiles. On insistence some jokes are repeated for me but it doesn't quite have the same impact.

More seriously, is the fact that prisoners, especially here, need opportunities for rehabilitation through 'education' and specific 'courses' to address crimes. I was at first denied any education due to the 'class' situation but was offered work on computers. This again was denied when they found I had to wear headphones, but after a bit of insistence the headphones sections were waived. But I'm still not able to access over 90% of the education opportunities without a CSW [Communication Support Worker]. I'm currently waiting for a response about the use of CSWs in prisons. More importantly the rehab course which would help with my early release is not accessible without a CSW as it is a group session.

It is natural for a deaf person like me to put more trust in people than hearing people but 'inside' this is in itself a risk as both inmates and prison officers have reputations of not being trustworthy. I'm often told something will be done and realise weeks after nothing has happened. Once my hearing aids give up ghost I will be extremely vulnerable indeed.

## 4 Service provider perspectives

*"I know that there are a lot of other things going on at regional offices and in prisons that I am not personally aware of..."*

*Service provider*

The responses from the sample of service providers highlighted some provisions for deaf prisoners, but also exposed deficits which were present in previous literature; some published almost a decade before.

### **Former Minister for Prisons and Probation**

Maria Eagle (the then Minister of State for Prisons and Probation) wrote to the Howard League for Penal Reform to express the wish 'that all offenders are able to complete their sentence plan and take a full part in the life of the establishment'. She added:

*I believe that this is often best achieved through individual assessment and reasonable adjustments made to address the specific issues identified, rather than adopting a one size fits all policy ... the first part of providing appropriate care for hearing impaired or deaf prisoners is proper data collection.*

She also detailed some of the adjustments that might be considered to be 'reasonable adjustments' such as prisoners being allowed to use hearing aids or induction loops.

Eagle also pointed out that '... access to education, employment and offending behaviour programmes is key to successful progression through a sentence plan' and added that 'in order to assist prisoners whose main language is other than English staff are encouraged to learn other languages including BSL'. She went on to state, '... additionally a BSL interpreter will be obtained for important situations where it would be inappropriate to rely on staff interpretation. Not all hearing impaired or deaf prisoners communicate in BSL, however, and advice is provided to support prisoners who rely on lip reading.'

Eagle suggested that prisons might not always be responsible for adapting to incorporate deaf prisoners. She proposed that:

*Education and other courses are provided by specialist providers such as the local education authority and we would expect the provider to consider the delivery of courses or education classes to those prisoners with hearing impairments.*

She also provided an example of such consideration by saying, 'I know of one prison which developed a specially tailored offending behaviour course to be delivered to profoundly deaf prisoners.'

### **National Offender Management Service (NOMS)**

Evidence from 'Gareth' (a representative of NOMS with experience of disability issues) pointed to a number of initiatives that had taken place in order to improve the general experience of deaf prisoners. These included disability aids transferring with the prisoner and some prisons sponsoring staff to learn BSL. Throughout the correspondence, 'Gareth' often suggested that actions should take place but stopped short of saying that they did take place, perhaps suggesting that they did not always happen.

All prisoners should undergo a two stage healthcare screen: an initial screen on reception and a follow up. All information about disabilities should be carried through to the next prison. 'Gareth' pointed out that the reception screening questionnaire which asks to declare a disability is delivered verbally by an officer, administrative staff member or member of healthcare. This in itself may be problematic as a deaf prisoner may not be able to fully understand either the form and/or the staff member.

'Gareth' acknowledged flaws in the provision for deaf prisoners. It was suggested that the lack of clarity around the collection of data regarding the number of profoundly deaf prisoners may lie at the heart of the problem. When questioned about the number of profoundly deaf prisoners in England and Wales, 'Gareth' stated:

*We don't currently have that level of detail on individual disabilities. The data is collected in broader categories and therefore the only figures I have are for hearing impairment.<sup>5</sup>*

A further issue raised by 'Gareth' was the differences in training staff, especially DLOs. He stated that:

*...there has never been a specific DLO training course ... a significant amount of information is provided to DLOs through the Equalities Group pages on the HMPS intranet but actual training is delivered through the regions. This means that what is delivered will vary from region to region.*

This variation could have resulted in differing levels of deaf awareness between individual DLOs and may have resulted in vastly differing experiences for deaf prisoners dependant on their location. Although the role of the DLO is no longer mandatory, the issue of adequate disability awareness training for staff still exists.

'Gareth' noted that there is often a lack of clarity regarding who was expected to make 'reasonable adjustments' for deaf prisoners as there was not a central budget for disability adjustments. He added that any costs would be borne by the individual prison's budget (and from different areas of the prison budget) potentially leading to variation in the adjustments made. Examples provided included: changes to the fabric of the buildings coming from the prison's works budget; health-related aids from the healthcare teams; the DLO sourcing small items such as vibrating alarm clocks. The suggestion was that inconsistent funding patterns and variations in practice were apparent.

Although the service provider responses showed examples of what might have been 'desirable' practices they also demonstrated that these are not always realities. They also showed the complexity in making provision for profoundly deaf prisoners.

## 5 Stakeholder responses

*“...the prisons have a duty too, and they can’t back away from that”.*

*Stakeholder*

The sample of other stakeholders revealed some detailed insights into their experiences of working with deaf prisoners. They showed an understanding of the difficulties faced in delivering provision for deaf prisoners but their responses largely pointed to examples of inadequate provision.

### **Representative of a deafness charity**

‘David’, a representative of a prominent charity involved in working with deaf people, broached some of the topics highlighted by the service users, whilst adding his own knowledge to the topic areas.

‘David’ acknowledged that ‘there are all sorts of issues with communication.’ He presented various scenarios in which communication issues can impact upon profoundly deaf prisoners. ‘David’ suggested that in ‘not being able to follow orders; people may misunderstand and this might be taken as unwillingness to play by the rules. So there is an issue there about discipline’. He also spoke about the way in which a lack of communication might impact deaf prisoners, suggesting:

*Whilst prison is a new environment for everyone, for deaf prisoners this is even more the case. While hearing prisoners can observe and pick up on things through a process similar to osmosis, for deaf people that simply is not the case and having to learn a completely new culture is much more difficult. It would take much longer to have similar processes take place, and to understand the rules and adjust to them, unless such rules are explained in BSL.*

‘David’ claimed that deaf prisoners often have communication difficulties with other prisoners due to language differences. He spoke of some of the problems that this can lead to for deaf prisoners, and proposed that ‘it’s almost like deaf prisoners are being kept in isolation...they aren’t accessing the culture because the environment means that they are unable to do so.’

‘David’ referred to the social level of exclusion that deaf prisoners might face in the prison environment, noting:

*Other prisoners might regard them as stupid – it is quite common for deaf people who sit there quietly to be considered to be ‘outsiders’, so they are doubly excluded. They are excluded by both the disability and also excluded in the social setting by other people’s reactions to the symptoms of their disability. It is quite common in institutions to be left out; and because they are left out they might be regarded as slow or stupid, and people might even bully them because they don’t appear to want to participate.*

In acknowledging this complex level of social exclusion, he noted other prisoners’ perceptions of deaf prisoners as well as touching on issues of bullying within the prison setting. In considering the implications of this, he said:

*...as we know with these types of things, as soon as you are labelled as an ‘outsider’ that label sticks and that perception of you increases. People’s attitudes to you fit the label that you are given. And as you go further into prison life, those issues start to get worse.*

‘David’ also discussed the mental health of deaf prisoners, something the previous literature has linked to isolation. He suggested that for deaf prisoners ‘although there might not be a mental health issue originally; the worse treatment becomes and the more isolated someone becomes the state of their mental health is likely to diminish.’ This supports the claims made by Young et al. (2000) and is similar to the feelings expressed by some of the prisoner respondents about the state of their mental health.

During the interview, an equally important consideration about prisons and equality was made. ‘David’ suggested that deaf prisoners might not have equal access to elements of rehabilitation such as education, counselling and offending behaviour courses and asked:

*What are prisons there for? ...there is the punitive element but there is also the rehabilitative element: without access to the rehabilitative element deaf prisoners are only receiving the punitive element.*

‘David’ also spoke about the nature of provision and the difficulties for both deaf prisoners and the prison service in making sure the correct provision is being delivered. They suggested that such a reasonable adjustment ‘might be one which allows a deaf prisoner the same opportunities to access the prison regime as other prisoners, especially with regards to things like rehabilitation, work, courses and education.’ He acknowledged that reasonable adjustment ‘is not about going the extra step; it is about making sure that everybody has the same opportunities and access.’ This consideration becomes especially important when coupled with the claim that:

*... there is a need for deaf prisoners to jump through ‘hoops’ in order to get these things [aids that they might use outside of prison]...every time that they need an adjustment they have persuade prison authorities to give them these, even if they are the bare essentials in helping them carry out their day-to-day activities.*

‘David’ added that such a task ‘is made difficult when they [deaf prisoners] can’t communicate effectively to begin with.’ He also discussed the provisions themselves and the way in which they can improve the experience for deaf prisoners:

*Those sorts of things would be a huge help and might help to ease some of the issues of isolation that people with communication difficulties face within prisons. Prisoners should have the opportunity to communicate in their first language, so if their first language is British Sign Language, then an interpreter should be provided – especially when there are meetings, maybe with solicitors or for work related activity, or any official meeting really.*

However, ‘David’ also acknowledged the difficulty that prisons can have in providing these services, for example with regards to law-based interpreters, suggesting that ‘there are some BSL interpreters who specialise in the law, but they are very expensive.’ He acknowledged that ‘it might be argued that you can’t always provide interpretation, for example for exercise and things’ but added that ‘for those parts that are essential to a prisoner’s life, it seems pretty clear that interpretation should be provided.’ He further suggested that ‘by not using a language that deaf prisoners understand, prisons are failing to provide a service and therefore could be argued to be discriminating against deaf people.’

### **Representatives from legal teams**

The interview with ‘Oliver’, a solicitor with experience of working on cases concerning prisoner rights highlighted a number of issues in accessing provision for deaf prisoners, both from the perspective of the prisoner, and the perspective of the prison. ‘Oliver’ claimed that in the case of deaf prisoners:

*There are huge disparities between the standards of care in individual prisons. Not every prison has poor levels of provision, but in most there is significant room for improvement.*

‘Oliver’ pointed out the complexities in providing suitable accommodation for deaf prisoners, suggesting that ‘there are a number of priorities in deciding where prisoners are placed.’ He discussed the issues of categorisation of prisoners; provision of courses to address offending behaviour; geographical location and disability. He noted that this complex mix of priorities can bring about issues in deciding where to place deaf prisoners.

‘Oliver’ suggested that for deaf prisoners this can present a dilemma:

*In some situations prisoners are left with a choice: either complete the course in a prison that cannot cater for your needs, but be released sooner; or receive a better standard of treatment/living but not be able to complete the courses you need to...and subsequently spend longer in prison as a result.*

‘Oliver’ also acknowledged that the actual process of getting provision in prisons is not simple. He contended that ‘there is a long process for receiving the adequate services’ and that even when this process is completed, ‘although some prisons do make ‘reasonable adjustments’, often these aids do not follow prisoners from prison to prison’ – a process which means that ‘some aids become redundant after use.’

‘Oliver’ also spoke of some of the structural difficulties that can affect the way in which provision is delivered.

*There is...some confusion over who should be providing what and where. It is difficult, if not impossible, to identify... who should be doing what at the different stages of meeting prisoner requirements.*

Additionally, on the subject of local schemes and policies (such as those published for prison healthcare, education and regime), ‘Oliver’ proposed that ‘these can conflict with other documents and policies.’

‘Oliver’ also suggested that confusion existed over the role of the DLO:

*The DLO’s role is one liaison...however there can be a tendency in prisons for DLOs to pick up the pieces when services are not provided, and to be seen as the party responsible for delivery of provision.*

This suggestion does not seem too unreasonable, given the proposition from ‘Gareth’ previously that ‘the DLO would source small items such as vibrating alarm clocks etc.’, whilst PSO 2855 states that the role of the DLO is ‘principally to act as a source of information and advice within the establishment on issues of disability affecting prisoners’ (HM Prison Service, 2008a). Since the role of the DLO is no longer mandatory this confusion may be even greater now than at the time of the interview, as local differences may exist in who provides each element of provision.

However, regardless of these tensions and confusions, ‘Oliver’ acknowledged:

*...there is an enhanced duty of care on the Prison Service to provide adequate care for the needs of prisoners, as prisoners are unable to take those proactive steps that they might do outside of prison. Without such care, deaf prisoners cannot get access to these through alternative means and so become unable to communicate and access the full regime.*

‘Oliver’ spoke of some of attitudes toward disability that can prevail in some establishments. They claimed that ‘many local prisons do not plan for delivery of care within their budgets – and many see disability as a burden on their already tight finances... often providing adaptations is seen as giving disabled prisoners more over and above what non-disabled prisoners would receive.’



He felt that a change in attitudes was needed within prisons in order to bring about a shift in provision. He proposed, similarly to 'David', that 'there needs to be a recognition that these aids are needed in order to bring the standard of treatment received by disabled prisoners in line with that received by non-disabled prisoners.'

These sentiments were echoed by 'Andi', a case worker from a law firm who had previous experience of working with profoundly deaf prisoners. 'Andi' brought attention to a number of issues, drawing on experiences from a legal case with a deaf prisoner. The topics that 'Andi' highlighted had similarities to the responses from the other stakeholders as well as the issues that the prisoners themselves highlighted in their narratives.

'Andi' suggested (similarly to the experiences of some prisoners), that for deaf prisoners, '...the prisons have not generally been falling over themselves to be reasonable and to make adjustments, and even to recognise the issue.'

'Andi' used a case study and claimed, 'there were all sorts of issues: to do with their safety, to do with the prison regime, to do with disciplinary procedures, to do with behaviour work in order to show that their risk is reducing.' 'Andi' went on to ask, '...can they participate in any of that, and to what extent is their prison experience going to be worse than that of someone who isn't deaf?'

'Andi' provided examples of ways in which the deaf prisoner was unable to participate in the prison regime in the same manner as other prisoners, for example, a prisoner being given a vibrating alarm clock. 'Andi' said:

*...something as simple as that...caused huge problems. The prison governor was saying things like that the alarm clock would only have 'novelty value', because it didn't matter what time the prisoner woke up. It shows a lack of understanding...and also meant that they lost out on the only job that they could do, because they failed to turn up for work on time.*

This example shows the effect that attitudes towards deafness can have on a prisoner's ability to access all parts of the prison regime. Added to this, 'Andi' questioned the manner in which prisoners using BSL are expected to communicate without any interpretation between BSL and English. The prisoner in the case study was said to be having access to a BSL interpreter for around three hours every six weeks. Given this amount of contact time with an interpreter, 'Andi' questioned whether:

*...the prisoner had explained to them what is going on in the prison, do they understand what happens at...every single aspect of the regime if they can't access it?*

'Andi' also proposed, similarly to many of the experiences cited by prisoners and other stakeholders, that deaf prisoners are often left unable to access the full regime in prisons. 'Andi' highlighted discipline issues and also pointed out some of the issues that deaf prisoners can face in maintaining relationships with family members due to their inability to use a telephone:

*...in this person's previous institution, they had supervised access to a textphone. ...so in real time they could have some form of conversation with their close family members. But in the next prison, when it was asked if he could have that, it wasn't even considered. He was told that he should learn to write so that he could write letters.*

In doing this, 'Andi' highlighted a point at which adjustment had been made in order for communication to take place but also exposed the disparities between the attitudes towards 'reasonableness' between different prisons.

'Andi' noted the complexities involved in some deaf prisoners having access to the courses needed to gain parole, suggesting:

*...when they [hearing prisoners] come to the parole board they can show that they have taken part in these courses to address their offending behaviour. If you are deaf, what access do you have to these courses? It is normally very limited, if at all.*

‘Andi’ suggested that this means that deaf prisoners may be ‘at a disadvantage when it comes to trying to get out of prison by reducing their risk’. ‘Andi’ proposed that this may lead to questions over the experience of prisons that deaf prisoners are receiving. ‘Andi’ questioned, similarly to ‘David’, the theoretical functions of prisons and whether the delivery of provision for deaf prisoners satisfies such functions, suggesting that deaf prisoners might only be receiving the punitive elements of the prison regime. ‘Andi’ also questioned at what point such a prohibition from accessing all parts the prison regime breaches the Human Rights Act (1998):

*When asking how much worse treatment is for a deaf person than for someone else you might ask at what point does it become inhuman and degrading treatment and a breach of Article 3. For example if someone is being effectively kept in complete isolation.*

Similarly to the rest of the other stakeholders, ‘Andi’ suggested that a fundamental shift in attitudes towards deaf prisoners is needed ‘by considering barriers as issues that need to be addressed; rather than looking at them as aggravating factors, which is sometimes the way in which they are seen at the moment.’ Andi said:

*...maybe there needs to be a change in the attitude towards deaf prisoners and the way in which they participate if we are ever going to see a change in their experiences...then prisons can start to look at the root causes of why some of these symptomatic issues come to be.*

The interviews with the other stakeholders highlighted experiences similar to those talked about by the deaf prisoner respondents. Whilst some examples of good practice and provision were apparent, these were in a minority of cases. Overall these stakeholders seemed to suggest that much more could be done to give profoundly deaf prisoners full access to the prison regime and make their experiences more equal to those of hearing prisoners.





# Conclusion: Emergent themes, similarities and differences between the three populations

*"Maybe there needs to be a change in the attitude towards deaf prisoners and the way in which they participate if we are ever going to see a change in their experiences."*

*Stakeholder*

All three participant populations showed variations on attitudes towards the provision that they felt was and should be provided. Each population showed both ways in which provision had been made, as well as ways in which it had potentially not been realised.

The service providers presented a number of elements of provision that are used to help deaf prisoners whilst also demonstrating inconsistencies and shortcomings. The views of this group were the most different of the three groups. Although they highlighted a number of ways in which provision should be met, the experiences recounted by the prisoners and other stakeholders suggest that in some cases these provisions are not always realised within prisons.

The deaf prisoners themselves gave a number of ways in which they felt that provision was not made and suggested adjustments that they felt would be realistic. Although some of their desires were perhaps unrealistic, a number of suggestions (such as having an induction interpreted into BSL or having access to education or work) were not only important for the prisoner but also had potential benefits for prisons. In many cases prisoners highlighted that a deprivation of communication meant that they were unable to understand what was happening around them which left them confused and unable to access the prison regime in the same manner as other prisoners. They also added that they felt their relationships with both other prisoners and with prison staff were affected by this, with some responses even claiming the presence of mental health issues stemming from their isolation. Some prisoners did express happiness with experiences, although this was often isolated and exceptional rather than the norm.

The views of the other stakeholders had similarities to those of prisoners. They cited a number of issues as being problematic, especially the impact that an inability to access the prison regime can have upon a prisoner: both socially and officially. This population did show some understanding of the efforts made by the Prison Service, however their opinions seemed to suggest that much more could and should be done to aid prisoners who had trouble communicating. They also pointed out a number of legal issues that could stem from non-provision of 'reasonable adjustment' for the needs of deaf prisoners. They suggested that a shift in attitudes towards profoundly deaf prisoners is needed in order to make any real progress in improving provision for this group of prisoners, provision that could also benefit the Prison Service.

Members of each population had similarities in their accounts. The commonalities between the experiences of the prisoners and other stakeholders might give more power to these accounts as they can be cross-validated. This is not to say that those experiences cited by the service providers are not true, but instead that experiences discussed are perhaps what should be happening or what is reported to be happening in some prisons rather than what is actually happening.

The experiences presented within the research suggest that in the majority of cases the provisions made for deaf prisoners often did not meet their needs. In some cases it appeared that no attempt whatsoever had been made to make 'reasonable adjustments' for the needs of deaf prisoners. In many cases this meant that prisoners were left unable to access elements of the prison regime, especially those which have been suggested to have rehabilitative power. This could mean that profoundly deaf prisoners might serve longer sentences due to their inability to show a reduction in their risk of reoffending.

Deaf prisoners might be judged to only receive a partial justice system, arguably being at a disadvantage compared to other prisoners. Commentators might also claim that some of the cases presented breach the law, in terms of the Equality Act 2010 and the Human Rights Act 1998. More recognition that deaf prisoners need some aids in prison is required so that deaf prisoners have the same level of access to essential services as hearing prisoners.

It is important to acknowledge that there were some cases where provision had been made for the needs of deaf prisoners and where prisons appeared to make swift changes in order to meet the needs of deaf prisoners. In the majority of cases a wider change in prison policy is needed in order to bring the level of provision for deaf prisoners in English and Welsh prisons to that required by law and in order for the Prison Service to effectively realise its vision to 'provide the very best prison services' by securing key objectives.

### **Key recommendations**

In light of this research, the following recommendations are made for service providers:

- Deaf prisons should not face a partial justice system. The Prison Service should ensure that prisoners are not prohibited from accessing elements of the prison regime on the basis that they are deaf as this could breach the Equality Act 2010.
- Clear guidelines for all agencies on who is responsible for providing access to each part of the prison regime should be established, in order to minimise confusion over who is responsible for each element and ensure deaf prisoners can fully access the prison regime.
- Ensure that instructions made in PSI 32/2011, *Ensuring equality*, are adhered to by all English and Welsh prisons. This includes producing disability action plans and ensuring that efforts are made to identify prisoners with disabilities.
- Facilitate communication between prisons about policies regarding special treatment and 'reasonable adjustment' in order to bring about some consistency in provision. The prison estate should be provided with cases of good practice where prisons have made reasonable adjustments for prisoners with individual needs within their budgets. Examples of the benefits and obstacles in delivering provision should be provided for these cases to give prisons a realistic expectation of the rewards and effort involved in providing such adjustments.
- Consider the prospect of a national prisons budget to cater for individual needs in order to reduce the attitude in prisons of deafness as a 'burden'.
- Provide accurate statistics regarding the number of deaf prisoners in the care of the Prison Service.

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**Legislation**

Disability Discrimination Act 1995

Disability Discrimination Act 2005

Human Rights Act 1998

Equality Act 2010

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# About the author

Daniel McCullouch was the first recipient of the Howard League Bursary for the MA in Criminology at Birmingham City University. He is currently undertaking a PhD at the Open University.

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This report was adapted from his dissertation.



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1 Ardleigh Road **t**  
London **e**  
N1 4HS **w**

020 7249 7373  
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[www.howardleague.org](http://www.howardleague.org)

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